

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DEXTER CLARKE,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of  
Social Security

Defendant.

CASE NO. C11-5951 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 17) and Plaintiff Dexter Clarke’s (“Clarke”) objections to the R&R (Dkt. 20).

On August 10, 2012, Judge Strombom issued the R&R recommending that the Court affirm the Administrative Law Judge’s (“ALJ”) denial of benefits to Clarke (Dkt. 9–2 at 9–28). Dkt. 17. On August 25, 2012, Clarke filed objections. Dkt. 18. On September 6, 2012, the Government responded and referred the Court to its original arguments. Dkt. 20.

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 First, Clarke requests that the Court conclude that the ALJ erred in determining  
2 Clarke's residual functioning capacity. Dkt. 18 at 2–7. The Court has reviewed the  
3 record and finds that the ALJ's determination was reasonable and based on a detailed  
4 evaluation of the objective medical evidence in the record. Therefore, the Court adopts  
5 the R&R on this issue.

6 Second, Clarke argues that the ALJ did not adequately consider the evidence from  
7 Peter Simon, M.A. Dkt. 18 at 7–11. The Court has reviewed the opinion of Mr. Simon  
8 (Dkt. 9–8 at 80–82) record and finds that Mr. Simon's opinion regarding Clarke's  
9 limitations is not supported by the objective medical evidence in the record. Therefore,  
10 the ALJ did not err in according no weight to Mr. Simon's opinion and the Court adopts  
11 the R&R on this issue.

12 The Court having considered the R&R, Clarke's objections, and the remaining  
13 record, does hereby find and order as follows:

- 14 (1) The R&R is **ADOPTED**;  
15 (2) The ALJ's decision is **AFFIRMED**; and  
16 (3) This action is **DISMISSED**.

17 Dated this 25<sup>th</sup> day of September, 2012.

18  
19 

20 BENJAMIN H. SETTLE  
21 United States District Judge  
22